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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/710,689

07/28/2004

Joel Fried

2361-3

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26496 7590 05/04/2009
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EXAMINER

SILBERMANN, JOANNE

ART UNIT

PAPER NUMBER

3611

MAIL DATE

DELIVERY MODE

05/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/710,689 | Applicant(s) FRIED ET AL. | |
| | Examiner Joanne Silberman | Art Unit 3611 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-35 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-35,37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 32-35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payan et al. US publication 2004/0128888 A1 (Payan) in view of Anders et al. US patent #4,633,215 (Anders) and Williams US patent #5,097,612 (Williams).

3. Payan teaches sending a message by removing a sign from a compact, storage configuration, extending the sign to a deployed configuration, and displaying the sign to send the message. Figures 7, 9 and 10 show a sign being expanded horizontally such that when it is expanded it has a greater width than height. The sign is flexible since it is expanded and it is lightweight since it is used by one person. The sign may be placed on the roof of a vehicle [0046]. A plurality of messages 87, 88 can be shown on the panel (Figures 7 and 9). The messages are illuminated and such illumination can be controlled from a control unit inside the vehicle [0052].

4. Payan does not specifically teach the sign as being stored in and removed from the glove compartment of the vehicle, however this is well known in the art as taught by Anders. Anders teaches storing an emergency sign in the glove compartment of a vehicle (column 2 line 17) and removing the sign and extending it into a deployed configuration for use on the vehicle's roof (Figure 1). It would have been obvious to a

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person having ordinary skill in the art to store the sign of Payan (as shown in Figures 7-10) in the glove compartment of the vehicle so that it may be easily accessible to a user, as taught by Anders.

5. Payan does not specifically teach arrows or flashing lights on the sign however these are well known in the art as shown by Williams. Williams teaches an emergency sign with multiple messages including arrows (Figures 9 and 10) which may flash (column 5 line 25). It would have been obvious to one of ordinary skill in the art to utilize flashing arrows on the sign of Payan since this symbol is well recognized and flashing lights are more easily seen. Also, patentable novelty cannot be principally predicated on mere printed matter and arrangements thereof, but must reside basically in physical structure. In re Montgomery, 102 USPQ 248 (CCPA 1954).

6. Regarding claim 33 Payan shows several joined sections (Figure 10).

7. Regarding claim 34, Payan does not specifically teach three sections however a third section is considered to be a duplication of parts. It would have been obvious to one of ordinary skill to utilize three sections instead of two since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

8. Regarding claim 35, Payan shows the joined sections as folding upon one another (Figure 10).

9. Regarding claim 37, the sign is considered to be lightweight as discussed above.

Response to Arguments

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10. Applicant's arguments filed 2/11/09 have been fully considered but they are not persuasive.

11. New references have been applied in response to Applicants' numerous amendments to claim 32. The Payan reference shows a sign which is folded and flexible and expands horizontally to serve as a display.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 571-272-6653. The examiner can normally be reached on M-F 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joanne Silbermann

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Primary Examiner
Art Unit 3611

/Joanne Silberman/
Primary Examiner, Art Unit 3611